

REPORT OF THE COMMITTEE ON  
ENROLLED BILLS

Committee Room,

Austin, Texas, April 12, 1935.

Hon. Coke Stevenson, Speaker of the  
House of Representatives.Sir: Your Committee on Enrolled  
Bills, to whom was referredH. B. No. 444, "An Act making an  
appropriation for emergency malaria  
control measures by the State Board  
of Health in certain areas of the State  
for a period of seven (7) months, and  
declaring an emergency,"Has carefully compared same, and  
finds it correctly enrolled.

ATCHISON, Chairman.

## FIFTIETH DAY

(Saturday, April 13, 1935)

The House met at 9:30 o'clock a. m.,  
pursuant to adjournment, and was  
called to order by Speaker Stevenson.The roll was called, and the fol-  
lowing members were present:

Mr. Speaker	Fuchs
Adamson	Gibson
Aikin	Glass
Alexander	Good
Alsup	Graves
Atchison	Gray
Beck	Hankamer
Bergman	Hanna
Bourne	Harris of Archer
Bradbury	Harris of Dallas
Bradford	Head
Burton	Herzik
Butler of Brazos	Hill
Butler of Karnes	Hodges
Caldwell	Hofheinz
Calvert	Holland
Canon	Hoskins
Celaya	Howard
Clayton	Huddleston
Collins	Hunt
Cooper	Hunter
Crossley	Hyder
Davis	Jackson
Davison of Fisher	Jones of Atascosa
Davisson	Jones of Falls
of Eastland	Jones of Runnels
Dunagan	Keefe
Dunlap of Hays	King
Dunlap of Kleberg	Knetsch
Dwyer	Lange
Fain	Lanning
Fisher	Lemens
Fitzwater	Leonard
Fox	Lindsey
Frazer	Lucas

Luker	Roberts
Mauritz	Rogers
McCalla	Russell
McConnell	Rutta
McFarland	Scarborough
McKee	Settle
McKinney	Shofner
Moffett	Stanfield
Moore	Stinson
Morrison	Stovall
Newton	Tarwater
Nicholson	Tennyson
Padgett	Thornton
Palmer	Tillery
Patterson	Waggoner
Pope	Walker
Reader	Wells
Reed of Bowie	Westfall
Reed of Dallas	Wood of Montague
Roach of Angelina	Worley
Roark	Young

## Absent

Ash	Jones of Wise
Broyles	Latham
Cagle	Leath
Colquitt	Lotief
Colson	Morris
Cowley	Morse
Craddock	Olsen
Daniel	Payne
Dickison	Petsch
Duvall	Quinn
England	Riddle
Farmer	Roane
Ford	Smith
Greathouse	Spears
Hardin	Steward
Hartzog	Venable
James	Wood of Harrison
Jefferson	Youngblood

## Absent—Excused

Adkins	Roach of Hunt
Jones of Shelby	

A quorum was announced present.

Rev. Geo. W. Coltrin, Chaplain,  
offered the following invocation:"Our Heavenly Father, we are  
grateful to Thee for the rest of the  
night, for our health and our lives,  
and for the opportunities of service,  
that may mean so much. Grant us  
Thy leadership in our thinking and  
our efforts. In Christ's name. Amen."

## LEAVE OF ABSENCE GRANTED

The following member was granted  
leave of absence on account of ill-  
ness:Mr. Adkins for today, on motion of  
Mr. Tillery.

Mr. Alsup moved a call of the House for the purpose of maintaining a quorum until 11:30 o'clock a. m., today, and the call was duly ordered.

The Speaker then directed the Doorkeeper to close the main entrance to the Hall, and instructed the Sergeant-at-Arms to lock all other doors leading from the Hall, and stated that no member would be permitted to leave the Hall without written permission from the Speaker.

On motion of Mr. Lindsey, the Sergeant-at-Arms was instructed to bring in all absent members within the city, who are not ill.

#### CONCERNING DISTRIBUTION OF CERTAIN LITERATURE

Mr. Keefe offered the following resolution:

Whereas, There has appeared on the desk of each member of the House of Representatives of the Forty-fourth Legislature during the past few days certain mimeographed and printed articles attacking certain bills now pending before the House; and

Whereas, These mimeographed and printed articles have not been signed by any person nor is there anything in them to disclose who is responsible for their distribution; and

Whereas, The members of the House are entitled to know from what source this literature comes; now, therefore, be it

Resolved by the House of Representatives of the Forty-fourth Legislature, That the employes of the House responsible for the distribution of these articles be requested to reveal from whom they were received; and be it further

Resolved, That the employes of this House be instructed not to circulate any literature of any kind unless the name of the author or the person responsible for its circulation appears on the article being circulated.

KEEFE,  
McCALLA,  
THORNTON,  
JONES of Wise,  
LUCAS.

The resolution was read second time, and was adopted.

#### PROVIDING FOR CERTAIN COMMISSION

The Speaker laid before the House, for consideration at this time,

H. C. R. No. 57, Providing for a certain commission;

The resolution having heretofore been read second time and referred to the Committee on State Affairs;

The Committee on State Affairs having recommended the adoption of the resolution.

On motion of Mr. Alsup, the resolution was referred to the Committee on Rules.

#### GRANTING PERMISSION TO SUE THE STATE

The Speaker laid before the House, for consideration at this time,

H. C. R. No. 79, by Mr. Graves, Granting Dr. C. R. Miller permission to sue the State;

The resolution having heretofore been read second time and referred to the Committee on State Affairs;

The Committee on State Affairs having recommended the adoption of the resolution.

Question recurring on the resolution, it was adopted.

#### GRANTING PERMISSION TO SUE THE STATE

The Speaker laid before the House, for consideration at this time,

H. C. R. No. 70, by Mr. Wells, Granting T. G. Allen permission to sue the State;

The resolution having heretofore been read second time and referred to the Committee on State Affairs;

The Committee on State Affairs having recommended the adoption of the resolution.

Question recurring on the resolution, it was adopted.

#### HOUSE BILL NO. 895 ON SECOND READING

(By Unanimous Consent)

On motion of Mrs. Moore, the regular order of business was suspended to take up and have placed on its second reading and passage to engrossment,

H. B. No. 895, A bill to be entitled "An Act to promote public morals, by abolishing certain causes of action, practices and proceedings, which are commonly used as means of extortion; abolishing civil causes of action

for alienation of affections, criminal conversation, and seduction; abolishing causes of action for breach of contract to marry; fixing the operation, effect, status, and character of acts hereafter done within this State, and of contracts to marry which shall hereafter be made within this State, etc., and declaring an emergency."

The Speaker laid the bill before the House, and it was read second time.

Mr. McCalla offered the following amendments to the bill:

Amend House Bill No. 895 by striking out the following words in lines 19 and 20, page 5, of the printed bill: "Nothing in this Act shall be construed to repeal any of the criminal laws of this State."

Amend House Bill No. 895 by striking out the following words in lines 14 and 15, page 5, of the printed bill: "This Act shall be liberally construed to effectuate the object thereof."

Amend House Bill No. 895 by striking out the following words in lines 32 and 33, page 3, of the printed bill: "and to this end the court may, in all such cases, impound pleadings or other documents in the case and hear such testimony in chambers."

The amendments were severally adopted.

Mr. McCalla offered the following amendment to the bill:

Amend House Bill No. 895 by striking out all of Section 8 thereof and inserting in lieu thereof the following:

"Section 8. Any person who shall wilfully violate any of the provisions of Sections 3, 4, or 7 of this Act shall be guilty of a felony and, upon conviction therefor, shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars, or by confinement in the penitentiary for not less than one year nor more than two years, or by both such fine and imprisonment."

Question—Shall the amendment by Mr. McCalla be adopted?

#### HOUSE BILL NO. 439 ON SECOND READING

Mr. Pope moved to take up, for consideration at this time,

H. B. No. 439, A bill to be entitled "An Act to amend Section 14, Chapter 186, Senate Bill No. 74, passed at the Regular Session, Thirty-ninth

Legislature, as amended by Chapter 10, Senate Bill No. 24, passed at the Third Called Session, Forty-first Legislature, as amended by Chapter 79, Senate Bill No. 82, passed at the Fifth Called Session, Forty-first Legislature, as amended by Chapter 207, Senate Bill No. 531, passed at the Regular Session, Forty-third Legislature, so as to correct the reference to Article 6674-n, in Section 1, Chapter 207, Acts of Regular Session, Forty-third Legislature, and making same refer to Section 14, Chapter 186, Senate Bill No. 74, passed at the Regular Session, Thirty-ninth Legislature; to confer authority on the State Highway Commission to purchase, or on failure to agree on price, then acting by and through the Attorney General of Texas or the county attorney in the county of which the land and/or materials is situated, to condemn land for any new or wider right of way or for materials necessary to any highway in connection with the locating, relocating, maintenance, or construction of such highway and/or to acquire by purchase or by condemnation the use or acquisition of land necessary for stream bed diversion in connection with the locating, relocating, maintenance, or construction of a designated State highway, and declaring an emergency";

The bill having heretofore been laid on the table subject to call.

The motion prevailed.

The Speaker laid the bill before the House, and it was read second time.

Mr. Pope offered the following committee amendment to the bill:

Amend House Bill No. 439 by striking out all after the enacting clause and inserting the following:

"Section 1. Article 6674-n, Revised Civil Statutes, 1925, as amended by Chapter 207, Senate Bill No. 531, passed at the Regular Session of the Forty-third Legislature, General Laws, page 622, be, and the same is hereby, amended so as to hereafter read as follows:

"Article 6674-n. Whenever, in the judgment of the State Highway Commission, the use or acquisition of any land for road, right of way purposes, timber, earth, stone, gravel, or other material, necessary or convenient to any road to be constructed, reconstructed, maintained, widened, straightened or lengthened, or land not exceeding one hundred feet in

width for stream-bed diversion in connection with the locating, relocating, or construction of a designated State highway by the State Highway Commission, the same may be acquired by purchase or condemnation by the county commissioners court. Provided that the county in which the State highway is located may pay for same out of the county road and bridge fund, or any available county funds.

"Any commissioners court is hereby authorized to secure, by purchase or by condemnation on behalf of the State of Texas, any new or wider right of way or land not exceeding one hundred feet in width for stream-bed diversion in connection with the locating, relocating, or construction of a designated State highway, or land or lands for material or borrow pits, to be used in the construction, reconstruction, or maintenance of State highways and to pay for the same out of the county road and bridge fund, or out of any special road funds or any available county funds. The State Highway Commission shall be charged with the duty of furnishing to the county commissioners court the plats or field notes of such right of way or land and the description of such materials as may be required, after which the commissioners court may, and is hereby authorized to, purchase or condemn the same, with the title to the State of Texas, in accordance with such field notes. Provided that in the event of condemnation by the county the procedure shall be the same as that set out in Title 52, Articles 3264 to 3271, inclusive, Revised Civil Statutes of 1925. Provided that if the county commissioners court of any county in which such right of way is, in the judgment of the State Highway Commission, necessary for the construction of a part of a designated State highway shall fail or refuse to secure by purchase or by condemnation for or on behalf of the State of Texas, such right of way or part thereof, immediately and as speedily as possible, under said Title 52, Articles 3264 to 3271, inclusive, Revised Civil Statutes, 1925, after being served with a copy of an order of the State Highway Commission identifying by field notes, the part of the highway necessary for the construction of such designated State highway and requesting such county commissioners court to secure same, then and in such event and

within ten (10) days after the service of such notice, said State Highway Commission shall direct the Attorney General of Texas to institute condemnation proceedings in the name of the State of Texas. The right of eminent domain to condemn any part of a right of way for a State-designated highway is hereby conferred on the State Highway Commission and the jurisdiction for the exercise of such right is hereby conferred on the County Court of Travis County. Such condemnation proceedings shall be instituted by the Attorney General by filing a statement for condemnation with the County Judge of Travis County, Texas, and the venue of such proceeding shall be in Travis County, Texas, and jurisdiction and authority to appoint three (3) disinterested freeholders of Travis County, Texas, as commissioners is hereby conferred upon the County Judge of Travis County, Texas, and otherwise such condemnation shall be according to the provision of said Title 52, Articles 3264 to 3271, inclusive, Revised Civil Statutes, 1925.

"In all cases where the State Highway Commission has before this Act becomes a law designated any highway in this State, as such, and the right of way has not been secured, it shall be the mandatory duty of the State Highway Commission to proceed within five (5) days after this Act becomes a law to comply with the provisions hereof and failure to in good faith and diligently comply herewith shall constitute malfeasance in office."

"Sec. 2. That all laws and parts of laws in conflict with the provisions of this Act be, and the same are hereby, repealed.

"Sec. 3. In the event any section, subdivision, paragraph, or sentence of this Act be declared unconstitutional or void, the validity of the remainder of this Act shall not be affected thereby; and it is hereby declared to be the policy and intent of the Legislature to enact the valid portions of this Act, notwithstanding the invalid portions.

"Sec. 4. The fact that it is necessary that the State Highway Commission have authority to acquire land or lands for new and/or wider rights of way, and/or necessary materials, and/or land for stream-bed diversion to carry out the purposes and public

functions of the State and the State Highway Commission, creates an emergency and an imperative public necessity that the constitutional rule, requiring bills to be read on three several days in each house, be, and the same is hereby, suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted."

Mr. Pope offered the following amendments to the committee amendments:

Amend committee amendment to House Bill No. 439 by adding at the end of line 6, page 3, the following:

"Provided, the provisions as to the right of the State Highway Commission to condemn, or cause to be condemned, any such right of way shall be limited to the cases where any commissioners court has refused to condemn such right of way prior to the effective date of this Act."

Amend committee amendment to House Bill No. 439 by adding in line 33, page 2, after the word "Texas" the following: "for the purpose of securing such right of way," and by adding before the word "is" in line 35, page 2, the following: "under the conditions herein set out."

The amendments were severally adopted.

The committee amendment, as amended, was then adopted.

Mr. Pope offered the following committee amendment to the bill:

Strike out all above the enacting clause and insert the following:

"H. B. No. 439,

#### A BILL

#### To Be Entitled

An Act to amend Article 6674-n, Revised Civil Statutes, 1925, as amended by Chapter 207, Senate Bill No. 531, passed at the Regular Session, Forty-third Legislature, General Laws, page 622; conferring upon the State Highway Commission the right of eminent domain, acting by and through the Attorney General of the State of Texas to condemn land for right of way in connection with the construction of a designated State highway; providing for filing of suits by the State Highway Commission, acting by and through the Attorney General of the State of Texas, in Travis County; providing for following same

procedure in Travis County as set out in Title 52, Articles 3264 to 3271, inclusive, Revised Civil Statutes, 1925; making it mandatory for the State Highway Commission to follow this Act in certain cases and defining failure to comply as malfeasance in office; repealing all laws or parts of laws in conflict herewith; providing that should any part of this Act be held to be unconstitutional or void same shall not affect the remainder thereof, and declaring an emergency."

The amendment was adopted.

House Bill No. 439 was then passed to engrossment.

#### HOUSE BILL NO. 439 ON THIRD READING

Mr. Pope moved that the constitutional rule, requiring bills to be read on three several days, be suspended, and that House Bill No. 439 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—107

Adamson	Good
Aikin	Graves
Alexander	Gray
Alsup	Hankamer
Beck	Hanna
Bergman	Harris of Archer
Bourne	Harris of Dallas
Bradbury	Head
Bradford	Herzik
Burton	Hill
Butler of Brazos	Hodges
Butler of Karnes	Hofheinz
Caldwell	Holland
Calvert	Hoskins
Canon	Huddleston
Celaya	Hunt
Clayton	Hunter
Collins	Hyder
Cooper	Jackson
Cowley	Jones of Atascosa
Crossley	Jones of Falls
Davis	Jones of Runnels
Davison of Fisher	Keefe
Davison	King
of Eastland	Knetsch
Dickison	Lange
Dunagan	Lanning
Fain	Lemens
Fisher	Leonard
Fitzwater	Lindsey
Fox	Lucas
Frazer	Luker
Fuchs	Mauritz
Gibson	McCalla
Glass	McConnell

McFarland	Russell
McKee	Rutta
McKinney	Scarborough
Moffett	Settle
Moore	Shofner
Morrison	Stanfield
Newton	Stinson
Nicholson	Stovall
Padgett	Tarwater
Patterson	Tennyson
Pope	Thornton
Reader	Tillery
Reed of Bowie	Waggoner
Reed of Dallas	Walker
Riddle	Wells
Roach of Angelina	Westfall
Roark	Wood of Montague
Roberts	Worley
Rogers	Young

## Nays—1

Atchison

## Absent

Ash	Jones of Wise
Broyles	Latham
Cagle	Leath
Colquitt	Lotief
Colson	Morris
Craddock	Morse
Daniel	Olsen
Dunlap of Hays	Palmer
Dunlap of Kleberg	Payne
Duvall	Petsch
Dwyer	Quinn
England	Roach of Hunt
Farmer	Roane
Ford	Smith
Greathouse	Spears
Hardin	Steward
Hartzog	Venable
Howard	Wood of Harrison
James	Youngblood
Jefferson	

## Absent—Excused

Adkins

Jones of Shelby

The Speaker then laid House Bill No. 439 before the House on its third reading and final passage.

The bill was read third time, and was passed by the following vote:

## Yeas—91

Adamson	Calvert
Alexander	Canon
Alsup	Celaya
Beck	Clayton
Bergman	Collins
Bourne	Cooper
Bradbury	Cowley
Burton	Davis
Butler of Brazos	Davison
Butler of Karnes	of Eastland
Caldwell	Fain

Fisher	Mauritz
Fitzwater	McCalla
Fox	McConnell
Frazer	McKinney
Fuchs	Moffett
Gibson	Moore
Glass	Morrison
Graves	Newton
Gray	Nicholson
Hankamer	Padgett
Hanna	Patterson
Harris of Archer	Pope
Harris of Dallas	Reader
Head	Reed of Bowie
Herzik	Reed of Dallas
Hill	Roach of Angelina
Hodges	Roark
Hofheinz	Roberts
Holland	Rogers
Hoskins	Russell
Hunter	Scarborough
Hyder	Settle
Jackson	Stanfield
Jones of Atascosa	Stinson
Jones of Falls	Stovall
Jones of Runnels	Tarwater
King	Tennyson
Knetsch	Thornton
Lange	Tillery
Lanning	Waggoner
Lemens	Walker
Leonard	Wells
Lindsey	Westfall
Lucas	Worley
Luker	Young

## Nays—10

Aikin	Good
Atchison	Huddleston
Bradford	Hunt
Crossley	Rutta
Dunagan	Wood of Montague

## Present—Not Voting

Shofner

## Absent

Ash	Howard
Broyles	James
Cagle	Jefferson
Colquitt	Jones of Wise
Colson	Keefe
Craddock	Latham
Daniel	Leath
Davison of Fisher	Lotief
Dickson	McFarland
Dunlap of Hays	McKee
Dunlap of Kleberg	Morris
Duvall	Morse
Dwyer	Olsen
England	Palmer
Farmer	Payne
Ford	Petsch
Greathouse	Quinn
Hardin	Riddle
Hartzog	Roach of Hunt

Roane  
Smith  
Spears  
Steward

Venable  
Wood of Harrison  
Youngblood

Absent—Excused

Adkins Jones of Shelby

Mr. McCalla moved to reconsider the vote by which House Bill No. 439 was passed and asked to have the motion to reconsider spread on the Journal.

Mr. Hofheinz called up the motion to reconsider the vote.

Question recurring on the motion to reconsider, it prevailed.

House Bill No. 439 was then passed by the following vote:

Yeas—104

Adamson	Hill
Alexander	Hodges
Alsup	Hofheinz
Atchison	Holland
Beck	Hoskins
Bourne	Howard
Bradbury	Hunt
Bradford	Hunter
Burton	Hyder
Butler of Brazos	Jackson
Butler of Karnes	Jones of Atascosa
Calvert	Jones of Falls
Canon	Jones of Runnels
Celaya	Keefe
Clayton	King
Collins	Knetsch
Cooper	Lange
Cowley	Lanning
Crossley	Lemens
Davis	Lindsey
Davison of Fisher	Lucas
Davisson	Luker
of Eastland	Mauritz
Dunagan	McCalla
Dunlap of Hays	McConnell
Dunlap of Kleberg	McFarland
Dwyer	McKee
Fain	McKinney
Fisher	Moffett
Fitzwater	Moore
Fox	Morrison
Frazer	Newton
Fuchs	Nicholson
Gibson	Padgett
Glass	Patterson
Good	Pope
Graves	Reader
Gray	Reed of Bowie
Hankamer	Reed of Dallas
Hanna	Roach of Angelina
Harris of Archer	Roark
Harris of Dallas	Roberts
Head	Rogers
Herzik	Russell

Rutta  
Scarborough  
Settle  
Shofner  
Stanfield  
Stinson  
Tarwater  
Tennyson  
Thornton

Tillery  
Waggoner  
Walker  
Wells  
Westfall  
Wood of Montague  
Worley  
Young

Nays—1

Aikin

Absent

Ash	Latham
Bergman	Leath
Broyles	Leonard
Cagle	Lotief
Caldwell	Morris
Colquitt	Morse
Colson	Olsen
Craddock	Palmer
Daniel	Payne
Dickison	Petsch
Duvall	Quinn
England	Riddle
Farmer	Roach of Hunt
Ford	Roane
Greathouse	Smith
Hardin	Spears
Hartzog	Steward
Huddleston	Stovall
James	Venable
Jefferson	Wood of Harrison
Jones of Wise	Youngblood

Absent—Excused

Adkins Jones of Shelby

# HOUSE BILL NO. 5 ON SECOND READING

Mr. Reader moved to take up, for consideration at this time,

H. B. No. 5, A bill to be entitled "An Act to protect trade-mark owners, distributors, and the general public against injurious and uneconomic practices in the distribution of articles of standard quality under a distinguished trade-mark, brand or name, and to facilitate fair trade";

The bill having heretofore been laid on the table subject to call.

The motion prevailed.

The Speaker laid the bill before the House, and it was read second time.

Mr. Good moved that further consideration of House Bill No. 5 be postponed until 10 o'clock a. m., next Wednesday.

Mr. Reader moved to table the motion by Mr. Good.

Question recurring on the motion to table, yeas and nays were demanded.

The motion to table prevailed by the following vote:

## Yeas—82

Alsup	Jackson
Beck	Jones of Falls
Bergman	Jones of Runnels
Bourne	Keefe
Bradford	King
Butler of Brazos	Lange
Butler of Karnes	Lanning
Calvert	Lemens
Canon	Lucas
Celaya	Mauritz
Collins	McCalla
Cooper	McConnell
Cowley	McFarland
Crossley	McKee
Davis	McKinney
Davison of Fisher	Moore
Davisson	Morrison
of Eastland	Newton
Dunagan	Nicholson
Dunlap of Hays	Padgett
Dwyer	Patterson
Fain	Reader
Fisher	Reed of Dallas
Fitzwater	Roach of Angelina
Fox	Roark
Frazer	Roberts
Fuchs	Rutta
Glass	Scarborough
Graves	Settle
Gray	Shofner
Hankamer	Stanfield
Hanna	Stinson
Harris of Dallas	Tarwater
Head	Tennyson
Herzik	Thornton
Hill	Tillery
Hodges	Waggoner
Hofheinz	Walker
Holland	Wells
Howard	Westfall
Hunt	Young
Hunter	

## Nays—17

Adamson	Hoskins
Aikin	Huddleston
Alexander	Hyder
Atchison	Lindsey
Bradbury	Moffett
Burton	Reed of Bowie
Caldwell	Russell
Good	Wood of Montague
Harris of Archer	

## Present—Not Voting

Worley

## Absent

Ash	Cagle
Broyles	Clayton

Colquitt	Leonard
Colson	Lotief
Craddock	Luker
Daniel	Morris
Dickison	Morse
Dunlap of Kleberg	Olsen
Duvall	Palmer
England	Payne
Farmer	Petsch
Ford	Pope
Gibson	Quinn
Greathouse	Riddle
Hardin	Roane
Hartzog	Rogers
James	Smith
Jefferson	Spears
Jones of Atascosa	Steward
Jones of Wise	Stovall
Knetsch	Venable
Latham	Wood of Harrison
Leath	Youngblood

## Absent—Excused

Adkins	Roach of Hunt
Jones of Shelby	

House Bill No. 5 was then passed to engrossment.

## HOUSE BILL NO. 5 ON THIRD READING

Mr. Reader moved that the constitutional rule, requiring bills to be read on three several days, be suspended, and that House Bill No. 5 be placed on its third reading and final passage.

The motion prevailed by the following vote:

## Yeas—83

Alsup	Frazer
Atchison	Fuchs
Beck	Gibson
Bergman	Glass
Bourne	Graves
Bradford	Gray
Butler of Karnes	Hankamer
Calvert	Hanna
Canon	Harris of Dallas
Celaya	Head
Clayton	Herzik
Collins	Hill
Cooper	Hodges
Cowley	Hofheinz
Crossley	Holland
Davis	Hoskins
Davison of Fisher	Howard
Davisson	Hunt
of Eastland	Hunter
Dunlap of Hays	Jackson
Dwyer	Jones of Falls
Fain	Keefe
Fisher	King
Fox	Lange

Lanning	Roach of Angelina
Lemens	Roark
Lucas	Roberts
Luker	Rogers
Mauritz	Rutta
McCalla	Settle
McConnell	Shofner
McFarland	Stinson
McKee	Stovall
McKinney	Tarwater
Moore	Tennyson
Morrison	Thornton
Newton	Tillery
Nicholson	Waggoner
Padgett	Walker
Pope	Wells
Reader	Westfall
Reed of Dallas	Young

## Nays—17

Adamson	Hyder
Aikin	Lindsey
Alexander	Moffett
Bradbury	Patterson
Burton	Reed of Bowie
Caldwell	Russell
Dunagan	Scarborough
Harris of Archer	Wood of Montague
Huddleston	

## Present—Not Voting

Fitzwater	Worley
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## Absent

Ash	Jones of Wise
Broyles	Knetsch
Butler of Brazos	Latham
Cagle	Leath
Colquitt	Leonard
Colson	Lotief
Craddock	Morris
Daniel	Morse
Dickison	Olsen
Dunlap of Kleberg	Palmer
Duvall	Payne
England	Petsch
Farmer	Quinn
Ford	Riddle
Good	Roane
Greathouse	Smith
Hardin	Spears
Hartzog	Stanfield
James	Steward
Jefferson	Venable
Jones of Atascosa	Wood of Harrison
Jones of Runnels	Youngblood

## Absent—Excused

Adkins	Roach of Hunt
Jones of Shelby	

The Speaker then laid House Bill No. 5 before the House on its third reading and final passage.

The bill was read third time, and was passed.

Mr. Good moved to reconsider the vote by which House Bill No. 5 was passed, and asked to have the motion to reconsider spread on the Journal.

On motion of Mr. Cooper, the call of the House was extended until 12 o'clock m., today.

Mr. Harris of Dallas moved to reconsider the vote by which the call of the House was extended.

Mr. Alsup moved to table the motion by Mr. Harris of Dallas.

Question recurring on the motion to table, yeas and nays were demanded.

The motion to table prevailed by the following vote:

## Yeas—53

Adamson	Hunt
Aikin	Jackson
Alsup	King
Beck	Knetsch
Bergman	Lanning
Bradford	Lucas
Butler of Brazos	Luker
Cooper	Mauritz
Crossley	McConnell
Davis	McFarland
Davison of Fisher	McKinney
Davisson	Moffett
of Eastland	Newton
Dunlap of Hays	Padgett
Fain	Reed of Dallas
Fisher	Roark
Fox	Rogers
Frazer	Rutta
Fuchs	Shofner
Gibson	Stanfield
Graves	Stovall
Hanna	Tarwater
Head	Tennyson
Herzik	Thornton
Hofheinz	Walker
Howard	Wood of Montague
Huddleston	Worley

## Nays—46

Alexander	Harris of Archer
Atchison	Harris of Dallas
Bourne	Hill
Bradbury	Hodges
Burton	Hoskins
Butler of Karnes	Hunter
Caldwell	Hyder
Calvert	Jones of Falls
Canon	Jones of Runnels
Celaya	Keefe
Collins	Lemens
Dunagan	Lindsey
Dwyer	McCalla
Fitzwater	McKee
Glass	Morrison
Gray	Nicholson

Patterson	Scarborough
Pope	Settle
Reader	Stinson
Reed of Bowie	Tillery
Roach of Angelina	Waggoner
Roberts	Westfall
Russell	Young

Present—Not Voting

Mr. Speaker

Absent

Ash	Jones of Wise
Broyles	Lange
Cagle	Latham
Clayton	Leath
Colquitt	Leonard
Colson	Lotief
Cowley	Moore
Craddock	Morris
Daniel	Morse
Dickson	Olsen
Dunlap of Kleberg	Palmer
Duvall	Payne
England	Petsch
Farmer	Quinn
Ford	Riddle
Good	Roane
Greathouse	Smith
Hankamer	Spears
Hardin	Steward
Hartzog	Venable
Holland	Wells
James	Wood of Harrison
Jefferson	Youngblood
Jones of Atascosa	

Absent—Excused

Adkins	Roach of Hunt
Jones of Shelby	

#### HOUSE BILL NO. 176 ON SECOND READING

On motion of Mr. Howard, the regular order of business was suspended to take up and have placed on its second reading and passage to engrossment,

H. B. No. 176, A bill to be entitled "An Act to amend Article 4736 of the Revised Civil Statutes of the State of Texas, providing for the assessment of a penalty against life insurance, accident insurance, life and accident, health and accident, or, life, health and accident insurance companies in case of failure to pay any loss within thirty days after the demand therefor, and providing for twelve per cent damages on the amount of such loss, together with reasonable attorney fees, for the prosecution and collection of such loss, etc., and declaring an emergency."

The Speaker laid the bill before the House, and it was read second time.

Mr. Howard offered the following committee amendment to the bill:

Amend House Bill No. 176 by adding at the end of Section One (1) the following:

"Provided that no such penalty or attorney's fees may be recovered unless the plaintiff shall recover upon the trial of the cause substantially the amount demanded by plaintiff's pleadings."

The amendment was adopted.

Mr. Greathouse offered the following committee amendment to the bill:

Amend House Bill No. 176 by striking out, in Section 1, everything after the word and figures "Article 4736," to Section 2, and inserting the following:

"In all cases where a loss occurs and the life insurance company or accident insurance company or life and accident, health and accident, or, health, life and accident insurance company, liable therefor, shall pay the same within thirty days after proof of loss and written demand for such payment, and in all cases where any fire insurance company liable therefor shall fail to pay the same within ninety days after proof of loss and written demand for such payment, such company or companies shall be liable to pay the holder of such policy, in addition to the amount of the loss, 12 per cent damages on the amount of such loss, together with reasonable attorney's fees for the prosecution and collection of such loss. Such attorney fees shall be taxed as a part of the costs in the case. The court, in finding such fees, shall take into consideration the benefits to the insured incident to the prosecution of the suit, accruing, and to accrue, on account of such policy."

GREATHOUSE,  
HARTZOG.

The amendment was adopted.

By unanimous consent of the House, the caption of the bill was ordered amended to conform to all changes and to the body of the bill.

House Bill No. 176 was then passed to engrossment.

#### HOUSE BILL NO. 176 ON THIRD READING

Mr. Howard moved that the constitutional rule, requiring bills to be

read on three several days, be suspended, and that House Bill No. 176 be placed on its third reading and final passage.

The motion prevailed by the following vote:

## Yeas—84

Adamson	Jackson
Aikin	Jones of Atascosa
Alexander	Jones of Runnels
Alsup	Keefe
Atchison	King
Beck	Knetsch
Bergman	Lange
Bourne	Lanning
Bradbury	Lindsey
Bradford	Lucas
Burton	Luker
Butler of Brazos	Mauritz
Butler of Karnes	McCalla
Caldwell	McConnell
Calvert	McFarland
Canon	McKee
Clayton	McKinney
Crossley	Moffett
Davis	Morrison
Davison of Fisher	Nicholson
Davison	Padgett
of Eastland	Patterson
Dunlap of Hays	Pope
Dwyer	Reader
Fain	Reed of Bowie
Fisher	Roach of Angelina
Fitzwater	Roark
Fox	Roberts
Fuchs	Rogers
Gibson	Rutta
Glass	Shofner
Graves	Stanfield
Gray	Stovall
Hankamer	Tarwater
Harris of Archer	Tennyson
Herzik	Tillery
Hill	Waggoner
Hodges	Wells
Hofheinz	Westfall
Hoskins	Wood of Montague
Howard	Worley
Hunter	Young
Hyder	

## Nays—16

Collins	Moore
Dunagan	Newton
Good	Russell
Hanna	Scarborough
Head	Settle
Huddleston	Stinson
Hunt	Thornton
Lemens	Walker

## Absent

Ash	Celaya
Broyles	Colquitt
Cagle	Colson

Cooper	Latham
Cowley	Leath
Craddock	Leonard
Daniel	Lotief
Dickison	Morris
Dunlap of Kleberg	Morse
Duvall	Olsen
England	Palmer
Farmer	Payne
Ford	Petsch
Frazer	Quinn
Greathouse	Reed of Dallas
Hardin	Riddle
Harris of Dallas	Roane
Hartzog	Smith
Holland	Spears
James	Steward
Jefferson	Venable
Jones of Falls	Wood of Harrison
Jones of Wise	Youngblood

## Absent—Excused

Adkins	Roach of Hunt
Jones of Shelby	

The Speaker then laid House Bill No. 176 before the House on its third reading and final passage.

The bill was read third time, and was passed.

## HOUSE BILL NO. 831 ON SECOND READING

(By Unanimous Consent)

The Speaker laid before the House, on its second reading and passage to engrossment,

H. B. No. 831, A bill to be entitled "An Act authorizing the separation or divorcement of public schools from municipal control in certain municipal school districts pursuant to an election to be held for that purpose; defining the term 'municipal school district' and the term 'governing body' of the city or town; prescribing the method of procedure precedent to calling such election, etc., and declaring an emergency."

The bill was read second time, and was passed to engrossment.

## HOUSE BILL NO. 831 ON THIRD READING

Mr. Cooper moved that the constitutional rule, requiring bills to be read on three several days, be suspended, and that House Bill No. 831 be placed on its third reading and final passage.

The motion prevailed by the following vote:

## Yeas—97

Adamson	Hunt
Aikin	Hunter
Alexander	Hyder
Alsup	Jackson
Atchison	Jones of Atascosa
Beck	Jones of Falls
Bourne	Jones of Runnels
Bradbury	King
Bradford	Knetsch
Burton	Lange
Butler of Brazos	Lanning
Butler of Karnes	Lemens
Caldwell	Leonard
Calvert	Lindsey
Celaya	Lucas
Clayton	Luker
Collins	Mauritz
Cooper	McCalla
Cowley	McConnell
Crossley	McFarland
Davis	McKinney
Davison of Fisher	Moffett
Davisson	Moore
of Eastland	Morrison
Dunagan	Newton
Dunlap of Hays	Nicholson
Dunlap of Kleberg	Padgett
Dwyer	Patterson
Fain	Reed of Bowie
Fisher	Reed of Dallas
Fitzwater	Roach of Angelina
Fox	Roark
Frazer	Roberts
Fuchs	Rogers
Gibson	Russell
Glass	Rutta
Graves	Stanfield
Gray	Stinson
Hankamer	Stovall
Harris of Archer	Tarwater
Harris of Dallas	Tennyson
Head	Thornton
Herzik	Tillery
Hill	Waggoner
Hodges	Walker
Hofheinz	Westfall
Hoskins	Wood of Montague
Howard	Worley
Huddleston	Young

## Nays—3

McKee	Wells
Settle	

## Present—Not Voting

Bergman

## Absent

Ash	Daniel
Broyles	Dickison
Cagle	Duvall
Canon	England
Colquitt	Farmer
Colson	Ford
Craddock	Good

Greathouse	Payne
Hanna	Petsch
Hardin	Pope
Hartzog	Quinn
Holland	Reader
James	Riddle
Jefferson	Roane
Jones of Wise	Scarborough
Keefe	Shofner
Latham	Smith
Leath	Spears
Lotief	Steward
Morris	Venable
Morse	Wood of Harrison
Olsen	Youngblood
Palmer	

## Absent—Excused

Adkins	Roach of Hunt
Jones of Shelby	

The Speaker then laid House Bill No. 831 before the House on its third reading and final passage.

• The bill was read third time, and was passed.

## ADJOURNMENT

Mr. Alexander moved that the House adjourn until 9:30 o'clock a. m., next Monday.

Mr. Tillery moved that the House recess to 2 o'clock p. m., today.

Question recurring on the motion by Mr. Alexander, it prevailed, and the House, accordingly, at 12 o'clock m., adjourned until 9:30 o'clock a. m., next Monday.

## FIFTY-FIRST DAY

(Monday, April 15, 1935)

The House met at 9:30 o'clock a. m., pursuant to adjournment, and was called to order by Speaker Stevenson.

The roll was called, and the following members were present:

Mr. Speaker	Cagle
Adamson	Caldwell
Adkins	Calvert
Aikin	Celaya
Alsup	Clayton
Ash	Collins
Atchison	Colquitt
Beck	Colson
Bergman	Cooper
Bourne	Cowley
Bradbury	Craddock
Bradford	Crossley
Broyles	Daniel
Burton	Davison of Fisher
Butler of Brazos	Davisson
Butler of Karnes	of Eastland